

## SENATE BILL NO. 392

INTRODUCED BY BALES, ANDERSEN, BARRETT, E. CLARK, CURTISS, DEVLIN, HEDGES, LAMBERT,  
A. OLSON, PETERSON, RIPLEY, ROME, ROSS, STEINBEISSER, STOKER, TASH, TAYLOR, WITT,  
ZOOK

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT WHEN THE DEPARTMENT OF FISH,  
WILDLIFE, AND PARKS DEVELOPS A MANAGEMENT PLAN ~~OR STRATEGY TO MANAGE A LISTED~~  
~~SPECIES, CANDIDATE SPECIES, OR SPECIES THAT IS A POTENTIAL CANDIDATE FOR LISTING, THE~~  
~~DEPARTMENT SHALL INCLUDE ONLY PROGRAMS WITHIN THE AUTHORITY OF THE DEPARTMENT~~  
~~THAT AFFECT THAT SPECIES, INCLUDING THE CONTROL OF PREDATORS OF THE SPECIES;~~  
~~REQUIRING THAT MANAGEMENT PLANS NOT BE DEVELOPED OR IMPLEMENTED IN ANY MANNER~~  
~~THAT AFFECTS OR DIRECTS THE USE OR MANAGEMENT OF LAND, OTHER THAN LAND AGREED UPON~~  
~~BY THE LANDOWNER OR CONTROLLED BY THE DEPARTMENT, WHETHER PUBLIC OR PRIVATE;~~  
CLARIFYING, THAT MANAGEMENT PLANS ARE PLAN IS SUBJECT TO THE PROVISIONS OF THE  
MONTANA ENVIRONMENTAL POLICY ACT; AMENDING SECTION 87-1-201, MCA; AND PROVIDING AN  
IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-1-201, MCA, is amended to read:

**"87-1-201. (Temporary) Powers and duties.** (1) The department shall supervise all the wildlife, fish,  
game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may  
implement voluntary programs that encourage hunting access on private lands and that promote harmonious  
relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties  
prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game  
laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state respecting the protection, preservation, and  
propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, and propagation  
of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that

1 purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or  
 2 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from  
 3 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the  
 4 department from any other sources is appropriated to and under control of the department.

5 (4) The department may discharge any appointee or employee of the department for cause at any time.

6 (5) The department may dispose of all property owned by the state used for the protection, preservation,  
 7 and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or  
 8 use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish  
 9 and game account in the state special revenue fund.

10 (6) The department may not issue permits to carry firearms within this state to anyone except regularly  
 11 appointed officers or wardens.

12 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations  
 13 not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

14 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation  
 15 of bear within or outside of the state.

16 (9) (a) The department shall implement programs that:

17 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing  
 18 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; and

19 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under  
 20 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the  
 21 maintenance or recovery of those species.

22 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential  
 23 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or  
 24 recovery of those species with the social and economic impacts of species maintenance or recovery.

25 ~~(c) In developing a management plan or strategy to manage a listed species, candidate species, or~~  
 26 ~~species that is a potential candidate for listing, the department shall include only programs within the authority~~  
 27 ~~of the department that affect that species, including the control of predators of the species. Department~~  
 28 ~~management plans under this subsection (9) may not be developed or implemented in any manner that affects~~  
 29 ~~or directs the use or management of land, other than land VOLUNTARILY SUBJECTED TO A MANAGEMENT PLAN BY THE~~  
 30 ~~LANDOWNER OR controlled by the department, whether public or private. Any management plan developed by the~~

1 department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.

2 ~~(c)~~(d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a  
3 privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates  
4 March 1, 2006--sec. 6, Ch. 544, L. 1999.)

5 **87-1-201. (Effective March 1, 2006) Powers and duties.** (1) The department shall supervise all the  
6 wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state.  
7 It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts  
8 of this state for the enforcement of the fish and game laws and the rules adopted by the department.

9 (2) The department shall enforce all the laws of the state respecting the protection, preservation, and  
10 propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

11 (3) The department has the exclusive power to spend for the protection, preservation, and propagation  
12 of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that  
13 purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or  
14 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from  
15 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the  
16 department from any other sources is appropriated to and under control of the department.

17 (4) The department may discharge any appointee or employee of the department for cause at any time.

18 (5) The department may dispose of all property owned by the state used for the protection, preservation,  
19 and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or  
20 use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish  
21 and game account in the state special revenue fund.

22 (6) The department may not issue permits to carry firearms within this state to anyone except regularly  
23 appointed officers or wardens.

24 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations  
25 not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

26 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation  
27 of bear within or outside of the state.

28 (9) (a) The department shall implement programs that:

29 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing  
30 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; and

1 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under  
 2 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the  
 3 maintenance or recovery of those species.

4 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential  
 5 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or  
 6 recovery of those species with the social and economic impacts of species maintenance or recovery.

7 ~~(c) In developing a management plan or strategy to manage a listed species, candidate species, or~~  
 8 ~~species that is a potential candidate for listing, the department shall include only programs within the authority~~  
 9 ~~of the department that affect that species, including the control of predators of the species. Department~~  
 10 ~~management plans under this subsection (9) may not be developed or implemented in any manner that affects~~  
 11 ~~or directs the use or management of land, other than land VOLUNTARILY SUBJECTED TO A MANAGEMENT PLAN BY THE~~  
 12 ~~LANDOWNER OR controlled by the department, whether public or private. Any management plan developed by the~~  
 13 ~~department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.~~

14 ~~(e)(d)~~ This subsection (9) does not affect the ownership or possession, as authorized under law, of a  
 15 privately held listed species, a sensitive species, or a species that is a potential candidate for listing."  
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17 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.  
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19 NEW SECTION. Section 3. Applicability. [This act] applies to all management plans that have not  
 20 been finalized by the department of fish, wildlife, and parks prior to January 1, 2003.  
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